

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2005

D046461 In re Pacheco on Habeas Corpus

The petition is denied.

D046401 In re Noble on Habeas Corpus

The petition is denied.

D044447 In re the Marriage of Nancy and Timothy S.

The trial court's February 15, 2005 order is reversed in so far as it modifies the spousal support award in the May 2003 judgment. The trial court is directed on remand to consider the factors provided in section 4320 and state on the record its reasons for any modification or termination of the spousal support ordered in the May 2003 judgment.

The trial court's February 15, 2005 order is reversed in so far as it modifies the child support award in the May 2003 judgment to require that Timothy pay one-half of his children's transportation expenses for their trips to visit him at Thanksgiving and Spring Break. The court is directed on remand to enter a child support order, retroactive to September 1, 2003, in favor of Nancy in the amount of \$1,568 a month, with no additional child support for visitation expenses associated with the children's Thanksgiving and Spring Break trips. Parties shall bear their own costs on appeal. Aaron, J.; We Concur: Benke, Acting P.J., Nares, J.

D045746 In re C.D., a Juvenile

The judgment and orders are affirmed. McDonald, J.; We Concur: McConnell, P.J., McIntyre, J.

D043397 Sempra Energy Resources v. California Department of Water Resources et al.

The petition for rehearing is denied.

D046746 In re Consiglio on Habeas Corpus

The petition is denied.

D046681 Oliver v. Superior Court of San Diego County/Hasslinger

The petition is denied.

D046636 Morales v. The Home Depot U.S.A. Inc., et al.

This court is without jurisdiction. The appeal is dismissed.

D044680 Conservatorship of the Person of Mary H., a Conservatee

The request for publication of the opinion is denied.

Court convened at 9 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald
Clerk: D. Moore

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2005 (Continued)

D044208 People v. Harris

Cause called on merits. Carl Fabian, Esq. argued for appellant. Garrett Beaumont, Deputy Attorney General argued for respondent. Cause submitted.

Court recessed at 9:13 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D044574 Thomas P., a Minor v. Fallbrook Union Elementary School District

Cause called on merits. No appearance by appellant's counsel. Paul Carelli, Esq. was present in oral argument for respondent and submitted on the briefs. Cause submitted.

Court recessed at 9:25 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D044471 Majorossy-Lott, et al. v. Allstate Insurance Company

Cause called on merits. Andrew Philip Dunk, Esq. argued for appellant/cross-respondent. John Brooks, Esq. argued for respondent/cross-appellant. Mr. Dunk replied. Cause submitted.

Court recessed at 10:35 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke
Clerk: D. Moore

D044588 People v. Morehouse

Cause called on merits. Dabney B. Finch, Esq. argued for appellant. A. Natasha Cortina, Deputy Attorney General argued for respondent. Cause submitted.

D045017 CPF Agency Corporation v. R. S. Towing Service

Cause called on merits. Sean Brew, Esq. argued for appellant. J. Parkeson Miller, Esq. argued for respondent. Mr. Brew replied. Cause submitted.

D044894 CPF Agency Corporation v. Sevel's 24-Hour Towing Service

Cause called on merits. Sean Brew, Esq. argued for appellant. Gary McCarthy, Esq. argued for respondent. Mr. Brew replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 11, 2005 (Continued)

D044401 Pender v. Cypress/Avalon, LLC et al.

Cause called on merits. Rory Wicks, Esq. argued for appellant. Shannon Gallagher, Esq. argued for respondent. Mr. Wicks replied.

D044781 Pender v. Waldenmayer et al.

Cause called on merits. Rory Wicks, Esq. argued for appellant. John Fred Sahhar, Esq. argued for respondent, Waldenmayer. Gary Edward Shoffner, Esq. argued for respondent, Notthoff. Joseph T. Jewell, III, Esq. was present in oral argument for respondent, Andersen. Mr. Wicks replied. Cause submitted.

Court recessed at 3 p.m. until Tuesday, July 12, 2005 at 9 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2005

D045855 One Broadway Plaza v. Rodermund et al.

D046080 One Broadway Plaza v. Citizens for Responsible Planning

D046493 One Broadway Plaza v. Citizens for Responsible Planning

The stipulation for consolidation of the above-entitled appeals is accepted in part as to D046080 and D046493, and denied as to D045855. Appeal numbers D046080 and D046493 are consolidated for all purposes. All documents will be filed under D046080. California Rules of Court, rule 5.1 having been timely elected in D046080, the consolidated appeal will proceed under rule 5.1. The parties are directed to California Rules of Court, rule 16. The proposed briefing sequence is due 20 days from the date of this order. The due date for Respondent's brief in D045885 is extended to 10 days from the date of this order.

D043723 Annette F. v. Sharon S.

The appeal is dismissed. Annette is entitled to costs on appeal. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

D046689 Feinstein v. the Superior Court of San Diego County/Schmall

The petition is dismissed because the case has been removed to federal court.

Court convened at 9 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke
Clerk: D. Moore

D044439 People v. Welch et al.

Cause called on merits. Elizabeth Missakian, Esq. argued for appellant, Charles Welch. Linda C. Mackey, Esq. argued for appellant, Jennifer Welch. Lynne McGinnis, Deputy Attorney General argued for respondent. Ms. Missakian replied. Ms. Mackey replied. Cause submitted.

Court recessed at 9:30 a.m. to change panels. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

D044492 Ghosn v. Ghosn

Cause called on merits. Robert La Croix, Esq. argued for appellant. Myer Sankary, Esq. argued for respondent. Mr. La Croix replied. Cause submitted.

D044890 Angeles v. Loma Verde Inc.

Cause called on merits. Jennifer Hegemier, Esq. argued for appellant. Robert B. Titus, esq. argued for respondent. Ms. Hegemier replied. Cause submitted.

Court recessed at 10:07 a.m. to change panels. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D043366 Hulburt v. Sylvester

Cause called on merits. Timothy I. Kozel, Esq. argued for appellant. Andrew Albert, Esq. argued for respondent. Mr. Kozel replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2005 (Continued)

Court recessed at 10:21 a.m. to change panels. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D045602 In re Claudia S. et al., Juveniles

Cause called on merits. Suzanne Evans, Esq. argued for appellant, Silvia R. Alice Shotton, Esq. argued for appellant, Fidel S. Carl Fabian, Esq. argued for the children. Paula Roach, Deputy County Counsel argued for respondent. Ms. Evans replied. Ms. Shotton replied. Cause submitted.

D043585 San Diego Police Officers Association et al. v. City of San Diego et al.

Cause called on merits. Everett L. Bobbitt, Esq. argued for appellant. William H. Songer, Deputy County Counsel argued for respondent. William S. Donnell, Deputy City Attorney argued for respondent. Guylyn R. Cummins, Esq. argued for respondent, Copley Press. Mr. Bobbitt replied. Cause submitted.

Court recessed at 11:10 a.m. until 1:30 p.m.

Court reconvened at 130 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald
Clerk: D. Moore

D043926 Bank of America v. Williams

Cause called on merits. David E. Kleinfeld, Esq. argued for appellant/cross-respondent. Robert P. Otilie, Esq. argued for respondent/cross-appellant. Mr. Kleinfeld replied. Cause submitted.

Court recessed at 2:14 p.m. to change panel member. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

D045893 In re Jose M., a Juvenile

Cause called on merits. Maryann Marisa Milcetic, Esq. argued for appellant, Audrey B. Valerie Lankford, Esq. argued for appellant, Jose M. Gary Seiser, Deputy County Counsel argued for respondent. M. Elizabeth Handy, Esq. argued for the minor. Ms. Milcetic replied. Ms. Lankford replied. Cause submitted.

D043974 Fire Insurance Exchange v. Sadeghini

Cause called on merits. Richard Eron Grey, Esq. argued for appellant. Robert H. Wright, Esq. argued for respondent. Mr. Grey replied. Cause submitted.

Court recessed at 3:29 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 12, 2005 (Continued)

D044354 People v. Fuller

Cause called on merits. Frank Vincent Puglia, Esq. argued for appellant. Nicholas Miller, Certified Law Student argued for respondent. Mr. Puglia replied. Cause submitted.

Court recessed at 3:54 p.m. until Tuesday, July 19, 2005 at 9 a.m.

D044574 Thomas P., a Minor etc. et al.v. Fallbrook Union Elementary School District

The judgment is affirmed. Respondent is awarded costs on appeal. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D045363 In re Nathaniel W., a Juvenile

D045858 In re Nathaniel W., a Minor, on Habeas Corpus

The petition for writ of habeas corpus in re Nathaniel W., D045858, is consolidated with the pending appeal, In re Nathaniel W.; D045363, for disposition.

D045363 In re Nathaniel W., a Juvenile

D045858 In re Nathaniel W., a Minor, on Habeas Corpus

(Consolidated) The judgment is affirmed and the petition is denied. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D045790 In re the Marriage of Paul and Diane Taylor

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D046538 Monica G. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Carlos C. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case as to Carlos C. is dismissed.

D046335 In re Brook N., et al. Juveniles

Upon written request filed by Appellant Minors, the appeal is dismissed as to Brook N., Richard N., III, and Abigail N., and the remittitur is ordered to issue immediately.

D045995 People v. Astorga

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 33(c)(5) and 17. The appeal is dismissed.

D046738 People v. Mitchell

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 13, 2005

D044766 People v. Jasso

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D046562 Evangeline B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Evangeline B. has notified the court on behalf of the petitioner that a petition for writ of mandate under California Rules of Court, Rule 38.1 will not be filed as there are no viable issues for writ review. Petitioner has filed a petition on her own behalf. That petition is inadequate in that it does not contain a page 2 and does not provide supporting points and authorities (item number 8 of the petition). On the court's own motion, petitioner is granted 10 days from the date of this order to file an amended petition complying with Rule 38.1. Failure to file a properly amended petition within the time specified will be deemed a waiver of the right to file a petition and will result in the dismissal of this case. Any amended petition filed after the 10 days will also be dismissed. Enclosed for Petitioner's information are copies Rule 38.1, form JV-825, and the order of this court dated June 21, 2005.

D046754 People v. Sharma

The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 14, 2005

D046207 In re Devon M. et al., Juveniles

The appeal is dismissed.

D046588 Estate of Sutherland

Pursuant to California Rules of Court, rule 8, the appeal filed June 2, 2005, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal.

D045542 In re J.G., a Juvenile

The order is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Nares, J.

D044563 People v. Degolyer

The judgment is modified to strike the convictions for counts 2, 6, 8 and 10, along with the enhancements in those counts. As so modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification and to forward a certified copy of the amended abstract to the Department of Corrections. Irion, J.; We Concur: Haller, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 15, 2005

D046338 In re Escamilla on Habeas Corpus

The petition is denied.

D046337 In re Perez on Habeas Corpus

The petition is denied.

D043509 Shaw v. County of San Diego

The judgment is affirmed. Irion, J.; We Concur: Benke, Acting P.J., Nares, J.

D044208 People v. Harris

The sentence is vacated and the matter is remanded to the trial court for resentencing in accordance with the views expressed in this opinion. In all other respects, the judgment is affirmed. After resentencing, the trial court shall prepare a new abstract of judgment and send a certified copy thereof to the Department of Corrections. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D046561 In re Brooks on Habeas Corpus

The petition is denied.

D046782 In re Consiglio on Habeas Corpus

The petition is denied.

D044845 In re the Marriage of Jacobs

The order is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., McIntyre, J.

D043366 Hulbert v. Sylvester

The order is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

D046682 People v. Reeder Bail Bonds

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

D044569 Toyo De Baja California, Inc. v. Toyo Tire & Rubber Co. et al.

The order is affirmed. Plaintiff is entitled to costs on appeal. McDonald, J.; We Concur: Huffman, Acting, P.J., Nares, J.

D046657 Stephen v. Hernandez et al.

The appeals filed on June 7, 2005 and July 1, 2005 are dismissed.